

EXHIBIT 27

Page 1

1

2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF PUERTO RICO

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In re:

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THE FINANCIAL OVERSIGHT AND PROMESA
MANAGEMENT BOARD FOR PUERTO
RICO, Title III
as representative of

THE COMMONWEALTH OF PUERTO RICO,
et al.,
Debtors

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THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD OF PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY
Debtor.

15

* PROFESSIONAL EYES ONLY *

16

17

VIDEOTAPED DEPOSITION

18

OF

C

DAVID A. SKEEL

2

New York New York

21

Tuesday, October 8, 2019

22

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Reported by:
ANNETTE ARLEQUIN, CCR, RPR, CRR, CLR
JOB NO. 169101

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1 D. Skeel - Professional Eyes Only
2 Q. But we're talking about July of
3 this year. So you have no recollection of
4 July of this year?
5 A. I don't. I mean, I have hundreds
6 of messages every day.
7 Q. Speaking of messages -- you're
8 talking about text messages?
9 A. Emails, phone calls, text
10 messages.
11 Q. You have a hundred of those?
12 A. I have a hundred emails.
13 Q. Okay. What about text messages?
14 A. Less --
15 MS. DALE: What about it?
16 Objection.
17 MR. DESPINS: You can't have
18 talking objections. State your
19 objection and then the witness will
20 answer.
21 MS. DALE: Objection to the form.
22 BY MR. DESPINS:
23 Q. Tell me about your text messages.
24 MS. DALE: Objection.
25 A. I have text messages every day.

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1 D. Skeel - Professional Eyes Only
2 Q. Between you and other members of
3 the board?
4 A. Between me and various people.
5 Sometimes other members of the board,
6 sometimes not.
7 Q. And other members of the board,
8 if I'm asking you to put aside Ana Matos
9 Santos and Judge Gonzalez, do you have text
10 messages with other members of the board
11 other than those two?
12 A. Occasionally, yes.
13 Q. Regarding PREPA?
14 A. Possibly.
15 Q. And would it be fair to say board
16 members communicate by text frequently
17 among, you know, between each other?
18 MS. DALE: Objection.
19 A. I only know myself.
20 Q. Well, but you're not
21 communicating with yourself. So you're
22 communicating with other people?
23 A. I communicate with other board
24 members, yes.
25 Q. By text?

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1 D. Skeel - Professional Eyes Only
2 A. By text, by phone, by email.
3 Q. Okay. And what about other
4 applications, meaning WhatsApp, that type
5 of -- or Telegram, or things like that, do
6 you guys communicate through that?
7 A. I do not use -- I don't use other
8 applications.
9 Q. And other board members?
10 A. I don't know.
11 Q. Have you received text messages
12 from other board members, again, other than
13 Judge Gonzalez and Ana Matos Santos?
14 MS. DALE: Objection. Asked and
15 answered.
16 You can answer it again.
17 A. Yes.
18 Q. Including regarding the RSA?
19 A. I don't remember specifics.
20 MR. DESPINS: Okay. Let's go to
21 Tab 21.
22 (Skeel Exhibit 3, Email chain
23 beginning with email dated 7/25/18 from
24 Castiglion to Brownstein and Skeel
25 with attachments, Bates-stamped

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1 D. Skeel - Professional Eyes Only
2 FOMB_9019_00006585 through 593, marked
3 for identification, as of this date.)
4 BY MR. DESPINS:
5 Q. Tell me when you're ready.
6 A. I'm ready.
7 Q. Actually the question I'm going
8 to ask you is not about that document yet.
9 I just want to close one loop.
10 Syncora and National were added
11 to the RSA in -- well, when were they added
12 to the RSA? Do you remember?
13 A. I don't remember exactly.
14 Q. Would -- September of 2019 sounds
15 right?
16 A. It's relatively recently.
17 Q. All right. So they were added
18 after the date of the previous text
19 messages that we were looking at?
20 A. I believe so.
21 Q. Okay. Was there a board meeting
22 to approve the joining of National and
23 Syncora to the RSA?
24 A. I don't remember if there was a
25 final board meeting. We authorized trying

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1 D. Skeel - Professional Eyes Only
2 to bring them on board.
3 Q. You authorized trying to bring
4 them on board, but you don't know if there
5 was a vote on it?
6 A. I don't remember one way or the
7 other.
8 Q. Well, this would have been in
9 September. We're in October of 2019 now.
10 A. I have age-appropriate memory
11 unfortunately. I don't specifically
12 remember. If I could go back through our
13 calls, I could -- I'm sure I could refresh
14 my recollection.
15 Q. Okay. Going back to the document
16 you have in front of you now. So this is
17 Bates-stamped, again, FOMB 6885, 6886.
18 A. Wait a second.
19 MS. DALE: It's 6585 to 6593.
20 THE WITNESS: That's what I have.
21 MR. DESPINS: Oh, I'm sorry. It
22 keeps going. Sorry.
23 (Document review.)
24 MS. DALE: Is that what you have?
25 THE WITNESS: Yes. I have what

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1 D. Skeel - Professional Eyes Only
2 you have.
3 (Document review.)
4 MR. DESPINS: Sorry. Let's
5 restate that. Bates stamps numbers
6 6885 through 6593.
7 MS. DALE: Luc, I think you're
8 just misstating the number on the
9 bottom, sir. It's 6585.
10 MR. DESPINS: Yeah, 6585. I'm
11 sorry.
12 MS. DALE: You were saying 6885.
13 MR. DESPINS: Okay. I'm sorry.
14 To 6583, right?
15 A. Wait.
16 (Document review.)
17 A. Yes, that's what I have.
18 Q. Look at 6586 at the bottom there.
19 Let's establish the date. Sorry.
20 The date is -- this is taking place in July
21 of 2018 this time?
22 A. That's correct.
23 Q. Okay. And if you look at the
24 July 25th, 2018, 9:02 a.m. email -- or, I'm
25 sorry, 8:58 a.m. email from yourself to

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1 D. Skeel - Professional Eyes Only
2 Mr. Brownstein, there is a reference here
3 to, "I'm a tad queazy about the numbers
4 discussed on Friday's call, which I missed
5 as you may remember, given the implied
6 potential payout."
7 What was the implied potential
8 payout?
9 A. What generally or what
10 specifically?
11 Q. No, for the bondholders.
12 A. I don't remember the exact
13 number.
14 Q. So you have no sense of was it 50
15 percent, 100 percent, 80 percent?
16 A. I don't remember exactly. It was
17 in the 70 to 80 percent, I believe.
18 Q. Okay. But you said you were a
19 "tad queazy" about these numbers.
20 What did you mean by that?
21 A. What I meant was we're getting
22 closer to -- we're getting higher into the
23 range of reasonableness, in my view. And
24 it was my way of nudging Citi to bargain
25 hard.

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1 D. Skeel - Professional Eyes Only
2 Q. So what is the upper range of
3 reasonableness in your view?
4 A. I don't have a specific number.
5 It would depend on all of the features of
6 the deal.
7 Q. Yeah, but when you sent that
8 email, you knew what the features of the
9 deal were, right, the other features of the
10 deal?
11 A. I knew what they were at that
12 time.
13 Q. Okay. But you were focusing on
14 the percentage recovery to the holders,
15 correct?
16 A. That was one thing I was focusing
17 on. I was focusing on other things as
18 well.
19 Q. Understood.
20 And you just mentioned a few
21 percentages, you know, a minute ago, 75, 80
22 percent or something like that.
23 So given that you knew what the
24 other elements of the deal were, what was
25 your view about the percentage?

1 D. Skeel - Professional Eyes Only
2 A. I said that the percentages that
3 we were talking about were moving up into
4 the upper ranges of my comfort zone.
5 Q. Which was?
6 A. I didn't -- I don't have a
7 specific number in mind. If it was 100
8 percent, I wouldn't be happy.
9 Q. Okay. How about 90 percent?
10 A. I probably wouldn't be happy with
11 that either, but it would depend on what
12 all the features of the deal were.
13 Q. But as I said, you knew the other
14 features of the deal at this point, right?
15 A. I knew many of the features of
16 the deal.
17 Q. Okay. And how about 85 percent?
18 A. I don't know what exact number I
19 had in mind. This was below 85 percent.
20 Q. Okay. So let me ask the
21 question: What do you think the percentage
22 recovery is under the preliminary RSA?
23 A. The maximum percentage recovery
24 is in the range of 77.5 percent.
25 Q. Okay. And what is it under the

1 D. Skeel - Professional Eyes Only
2 current RSA?
3 A. The current, it's in the same
4 general range. I forget exactly. I think
5 basically the same.
6 Q. Did you ever see in the
7 presentations from Citibank those types of
8 percentage recoveries? I'm not asking you
9 precisely what the percent recovery was,
10 but whether you saw reports from Citibank
11 that would show you percentage recoveries
12 for the bondholders?
13 A. I believe we saw estimated
14 percentage recoveries, yes.
15 Q. And they were consistent with the
16 numbers you just gave us?
17 A. In the final numbers, yes.
18 Q. Did anybody else, other than you,
19 on the board raise issues regarding the
20 percentage recovery?
21 A. I don't remember. Probably. We
22 had lots and lots of conversations.
23 Q. By the way, at the time of the
24 approval of the preliminary RSA, we're
25 talking about late July 2018, was Elias

1 D. Skeel - Professional Eyes Only
2 Sanchez still a representative on the
3 board? Or I forget his precise title, but
4 was he still the governor's representative
5 on the board at that time?
6 A. No, he was not.
7 Q. Did any other member of the board
8 express concerns regarding the preliminary
9 RSA before its approval?
10 MS. DALE: Objection. Asked and
11 answered.
12 You can answer it again.
13 A. At some point before approval, I
14 suspect people raised issues. I don't
15 remember. I don't remember specific board
16 members raising specific issues. But as I
17 said, there were many, many conversations.
18 Q. Why was the percentage recovery a
19 factor that you were focusing on?
20 A. My general perspective is PREPA
21 is essential to Puerto Rico's recovery, and
22 I wanted to make sure, to the extent I
23 could, that PREPA only enters into deals
24 that are sustainable.
25 Q. So your focus on the percentage

1 D. Skeel - Professional Eyes Only
2 recovery was not driven by the potential
3 challenges to the bondholders' legal
4 entitlement?
5 MS. DALE: Objection.
6 A. It was driven by many factors.
7 That's one. Legal factors are one.
8 Sustainability is one.
9 Q. Did you develop a view outside of
10 advice received from counsel regarding the
11 legal challenges to the bondholders'
12 claims?
13 A. I don't think I can disentangle
14 those two. We were getting legal advice
15 throughout, and that was shaping what I was
16 thinking.
17 Q. A minute ago you talked about --
18 you referred to the concept of
19 sustainability or sustainable? You said
20 that PREPA only enters into deals that are
21 sustainable.
22 Do you remember that?
23 A. Yes.
24 Q. What did you mean by that?
25 A. I mean deals PREPA can afford to

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1 D. Skeel - Professional Eyes Only
2 pay through time so it can be fully
3 rehabilitated.

4 Q. From your point of view, was that
5 more important than the discount to reflect
6 legal uncertainties?

7 MS. DALE: Objection to the form.
8

9 A. Yeah, I don't understand.

10 Q. Okay. You mentioned -- we were
11 discussing two factors. The first is the
12 challenge to the bondholders' legal
entitlement.

13 Do you understand what we mean by
14 that?

15 A. Yes.

16 Q. And then you talked about
17 sustainability for PREPA of the RSA, the
18 ability to sustain these payments.

19 Which one of those two is the
20 most important, in your opinion?

21 MS. DALE: Objection.

22 A. They're both important. They're
23 both -- they define the range of the
24 possible.

25 Q. The range of reasonableness or

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1 D. Skeel - Professional Eyes Only
2 the range of possible? I'm not sure I
3 understand.

4 A. Can you ask -- I'm not
5 understanding your question.

6 Q. When you say it "defines the
7 range of the possible," what does that
8 mean?

9 A. I'm still not really
10 understanding your question.

11 Q. These are the words you used.

12 What did you mean when you said
13 "the range of the possible"?

14 A. When we're negotiating a Title
15 III, we have to -- we're trying to
16 restructure the debt to make it
17 sustainable, but we're confined by what the
18 creditors' legal entitlements are. And
19 those are a couple of key factors that go
20 into the decision-making process.

21 Q. If the transition charge were not
22 sustainable, again your words, would you
23 have approved the RSA?

24 MS. DALE: Objection to form.
25 Calls for speculation.

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1 D. Skeel - Professional Eyes Only
2 A. Certainly sustainability of the
3 transition charge is a key factor.

4 Q. Were there any studies done of
5 the sustainability of the issue we just
6 talked about?

7 You mentioned sustainable. Were
8 there any -- did you get any reports from
9 anyone regarding that issue of
10 sustainability?

11 A. We got regular reports about
12 projected costs for PREPA. And in a sense,
13 that -- those are connected. So what
14 electricity is going to cost. The fiscal
15 plans make projections about what
16 electricity will cost likely under various
17 scenarios.

18 Q. And what is the cost of
19 electricity today, ballpark, in Puerto
20 Rico?

21 A. Right now, I believe it's in the
22 22 cents a kilowatt-hour range.

23 Q. And what does the board project
24 it will be in the next few years?

25 A. Current projections range from

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1 D. Skeel - Professional Eyes Only
2 about 22 to 25 or 26, is my recollection.

3 Q. Excluding the charge?

4 A. I believe including the charge,
5 yeah.

6 Q. Including the charge. Thank you
7 for clarifying that.

8 Do you have a sense of at what
9 point the price per kilowatt-hour becomes
10 unsustainable?

11 A. We get projections about that
12 from our advisers.

13 Q. But I'm asking you what is your
14 sense of --

15 A. I don't have, sitting here, a
16 particular number in mind.

17 MS. DALE: Luc, when it's
18 convenient, can we just take a
19 five-minute break?

20 MR. DESPINS: Sure. Sure.

21 MS. DALE: Now?

22 MR. DESPINS: Hold on a second.
23 Yes, sure. Let's take a break.

24 THE VIDEOGRAPHER: The time is
25 11:13. We are going off the record.

1 D. Skeel - Professional Eyes Only
2 (Document review.)
3 A. Okay.
4 Q. Just to identify the document,
5 FOMB 1148 and 1149. I think I got that
6 right this time. And this is an email from
7 David Brownstein to, it looks like, all
8 board members, dated Friday, July 27, 2018,
9 correct?
10 A. Correct. I will start paying
11 attention to the year.
12 Q. So will I.
13 (Laughter.)
14 Q. In the fourth paragraph -- I'm
15 sorry, the fifth paragraph, it says, "The
16 first relates to post-petition interest.
17 Proskauer wanted to make sure that you were
18 comfortable with the fact that we have
19 structured the agreement with the ad hoc
20 to pay post-petition interest at
21 settlement."
22 Did you have a chance to review
23 that, that language this paragraph?
24 A. If you can give me a minute, I'll
25 read the whole paragraph.

1 D. Skeel - Professional Eyes Only
2 Q. Yes.
3 (Document review.)
4 A. Okay.
5 Q. So why was this important to
6 mention post-petition interest?
7 MS. DALE: Objection to the form.
8 BY MR. DESPINS:
9 Q. In your view?
10 A. I don't know. I mean, it's a
11 term of the RSA.
12 Q. Okay. Were you aware when you
13 approved this in July 2018 that the board
14 had taken the position that the bondholders
15 were undersecured on the petition date?
16 A. I was aware that there were
17 potential legal challenges to the secured
18 status, yes.
19 Q. No, but I'm asking you whether
20 you were aware that the board had taken that
21 position in court?
22 A. I believe so, yes.
23 Q. Okay. And since you have some
24 bankruptcy background, what is the link
25 between being undersecured on the petition

1 D. Skeel - Professional Eyes Only
2 date in the issue of post-petition interest
3 in your mind?
4 MS. DALE: Objection. Calls for
5 a legal conclusion. Speculation.
6 You're not an expert here.
7 A. It is a legal issue, obviously.
8 Q. I understand that, but your --
9 I'm asking you what your understanding of
10 that is as a law professor on bankruptcy
11 issues.
12 MS. DALE: And I'm reasserting my
13 objections to this to this line of
14 questioning of a fact witness.
15 BY MR. DESPINS:
16 Q. You can answer.
17 A. Can you reask the question?
18 Q. What is the link between
19 creditors being undersecured on the
20 petition date and the issue of entitlement
21 to post-petition interest?
22 MS. DALE: Objection.
23 A. If -- my understanding is, if a
24 creditor is undersecured, they are not
25 entitled to post-petition interest. If

1 D. Skeel - Professional Eyes Only
2 they are oversecured, they are.
3 MS. DALE: Objection. And this email at the end
4 says something like, "Since we have a
5 deadline of 3:00 p.m. today, we wanted to
6 bring this to your attention now and would
7 appreciate receiving feedback as soon as
8 possible."
9 Do you recall yourself providing
10 feedback on this issue?
11 A. I don't remember.
12 Q. And you recall anyone providing
13 feedback on this issue?
14 A. I don't remember that either.
15 Q. And do you see the sentence that
16 says, in the same paragraph that I asked
17 you to look at that says, "This has been
18 the case on all of the special revenue
19 bonds restructured in municipal market,"
20 citing a bunch of cases?
21 What is the legal relevance of
22 that to the entitlement to post-petition
23 interest?
24 MS. DALE: Objection. Now you're
25 explicitly calling for a legal

1 D. Skeel - Professional Eyes Only
2 conclusion from this fact witness.
3 BY MR. DESPINS:
4 Q. You can answer.
5 A. I don't know.
6 Q. Do you have a sense of the
7 magnitude of the post-petition interest
8 that is being awarded to the bondholders
9 under the RSA?
10 A. What do you mean by "magnitude"?
11 Q. Magnitude, size, amount.
12 A. I don't. I know they are -- they
13 will be receiving interest on their
14 restructured bonds on the 67.5.
15 Q. No, I'm not asking you that.
16 I'm asking you under the RSA, do
17 you understand that the bondholders are
18 entitled to -- are being given an
19 entitlement to post-petition interest?
20 I'm not talking about
21 post-reorganization interest, I'm talking
22 about post-petition interest from the
23 petition date until May of 2019.
24 Do you understand that?
25 A. Yes, I do.

1 D. Skeel - Professional Eyes Only
2 MS. DALE: Objection to form.
3 BY MR. DESPINS:
4 Q. And do you know what is the
5 magnitude of that payment, the size of that
6 payment, ballpark?
7 A. I don't remember.
8 Q. 20 million? 100? 200?
9 A. I don't know. If you put a
10 document in front of me, I could see the
11 number, I'm sure.
12 Q. You don't think that
13 understanding the size of that claim, given
14 what we've just been through regarding the
15 entitlement to post-petition interest, is
16 critical?
17 MS. DALE: Objection. Misstates
18 his testimony.
19 A. Sitting here now, I don't
20 remember what the dollar amount is.
21 Q. Do you have a sense of -- would
22 you compare it to other things that --
23 other claims or other payments that are
24 receiving under the RSA, how does that
25 amount compare, larger or smaller?

1 D. Skeel - Professional Eyes Only
2 MS. DALE: Objection.
3 A. The question is the interest as
4 compared to the principal?
5 Q. No, the interest as opposed to
6 other benefits they are receiving under the
7 RSA, such as settlement payments, fees, et
8 cetera. If you compare those two, one is
9 bigger than the other? Same size?
10 Smaller? Do you have any sense?
11 A. It depends on the time frame of
12 the settlement payments, and the
13 administrative expense can go on for a
14 while. I don't know.
15 Q. You don't know.
16 Before seeing this email today,
17 did you know that there they were getting
18 post-petition interest under the RSA?
19 A. Yes, I did, certainly at the time
20 for sure.
21 Q. But this email was sent, I think,
22 at 10:35 on a Friday, and it called for a
23 response by 3:00 p.m. that day.
24 Did you know before receiving
25 this email that that was a feature of the

1 D. Skeel - Professional Eyes Only
2 transaction?
3 A. My recollection is that feature
4 was in pretty much from the beginning.
5 That we had multiple presentations that had
6 the interest included.
7 Q. And how did you get comfortable
8 that it was appropriate to include that
9 interest?
10 A. The ad hoc group was arguing they
11 were entitled to 100 cents on the dollar,
12 plus interest throughout, and that was one
13 of the issues of dispute.
14 Q. But you know the fuel line
15 lenders -- do you know who they are, the
16 fuel line lenders? Do you know what I'm
17 talking about?
18 A. Yes, I do.
19 Q. Okay. You know they are claiming
20 to be entitled to 100 cents on the dollar
21 as well, right?
22 A. Yes, I do.
23 Q. So why are they not getting
24 post-petition interest?
25 MS. DALE: Objection to the form

1 D. Skeel - Professional Eyes Only
2 of the question.
3 Again, to the extent that
4 anything -- your answer would implicate
5 legal advice that you've received, you
6 have to not -- you cannot disclose
7 that.
8 A. I would just say they're
9 different creditors with different claims.
10 Q. But you as a bankruptcy professor
11 have a sense of an undersecured creditor's
12 entitlement to receive post-petition
13 interest?
14 MS. DALE: Objection.
15 A. I have a sense of an undersecured
16 creditors and a sense of an oversecured
17 creditors. Different rights with respect
18 to interest, yes.
19 Q. And you see at the end of that
20 paragraph, do you see where it says, "As
21 you may recall, with respect to the
22 re-lending bonds..."
23 Do you see that sentence?
24 A. Yes, I do.
25 Q. Does that confirm your earlier

1 D. Skeel - Professional Eyes Only
2 testimony that they're getting 100 cents on
3 the dollar?
4 MS. DALE: Objection to the form.
5 Misstates his testimony.
6 A. This is just saying what their
7 treatment is. It isn't going into the
8 bases for the treatment.
9 Q. No, I'm not asking what the bases
10 is.
11 But it says, "We're also agreeing
12 to transfer them over to the securitization
13 bonds at par plus accrued."
14 What does "par plus accrued" mean
15 to you?
16 A. To me, that means full payment
17 plus accrued interest.
18 Q. Okay. So you testified before
19 that you would not feel comfortable with
20 bondholders getting 100 cents on the
21 dollar? I thought you said something like
22 that.
23 A. I will say I would not feel
24 comfortable with bondholders getting 100
25 cents -- these bondholders with these

1 D. Skeel - Professional Eyes Only
2 entitlements getting 100 cents on the
3 dollar.
4 Q. But some of them are?
5 A. Not for their full claims.
6 Q. Explain that.
7 A. The ad hoc bondholders are not
8 getting paid 100 cents on the dollar.
9 Q. Oh, so you think the re-lending
10 bondholders are not ad hoc bondholders?
11 A. That's my point is that the ad
12 hoc bondholders are -- they're the subject
13 of the preliminary RSA. So maybe what I
14 should say is can you be more specific
15 about who you're talking about?
16 Q. Well, I'm talking about who
17 Brownstein is talking about. He's talking
18 about the re-lending bonds. And you seemed
19 to understand who they were before when we
20 talked, you know, earlier this morning.
21 A. So you're separating them from
22 the ad hoc general bond claims? You're
23 talking just about re-lending bonds?
24 Q. Well, and this question is
25 directed at that. The re-lending bonds are

1 D. Skeel - Professional Eyes Only
2 apparently getting 100 cents on the dollar.
3 Are you comfortable with that?
4 A. I am comfortable with that.
5 Q. And why is that?
6 A. Their payout -- they have an
7 argument -- their legal argument's about
8 priority, but they also are being paid for
9 supporting the plan and for waiving rights
10 they might otherwise be pursuing.
11 Q. What other rights could they have
12 other than getting paid in full?
13 A. Rights to object in the Title
14 III, rights to -- well, I'll just stop
15 there.
16 Q. But the ad hocs are also waiving
17 those rights, right? They're agreeing not
18 to object. They're agreeing to the same
19 things the re-lending bonds are doing,
20 correct?
21 A. Yes, I think that's correct.
22 Q. Okay. So what is the distinction
23 between those two groups?
24 A. I think it's a legal issue that
25 I'll just leave there. I mean, our legal

1 D. Skeel - Professional Eyes Only
2 reflected in that bill in 2021?
3 MS. DALE: Objection. Calls for
4 speculation.
5 A. It would depend on who is paying
6 for those billions of dollars.
7 Q. But if the Federal Government
8 doesn't pay for them, then it would be on
9 that bill?
10 MS. DALE: Same objection.
11 A. It would potentially affect the
12 bill, yes.
13 Q. Okay. So how do you know,
14 sitting here today, that that bill in 2021
15 will be sustainable for Puerto Rico?
16 MS. DALE: Objection.
17 A. I don't know. All I know is what
18 we project and what looks like it will be
19 sustainable.
20 Q. What about other creditors? You
21 know, we've talked about the bondholders
22 for a while now.
23 Do you know if PREPA has other
24 creditors besides the bondholders?
25 A. My understanding is, yes, they do

1 D. Skeel - Professional Eyes Only
2 have other creditors.
3 Q. Such as?
4 A. Such as fuel line lenders.
5 Q. And how much are they owed,
6 ballpark? Do you know?
7 A. Ballpark, 700 million dollars.
8 Q. And other creditors, other than
9 the fuel line lenders?
10 A. There are unsecured creditors as
11 general unsecured creditors. I don't know
12 the magnitude.
13 Q. So when you approved this
14 transaction, was there any reference to the
15 money owed to the fuel line lenders or to
16 the unsecured creditors?
17 A. There would have been references,
18 yes.
19 Q. So we would find that in the
20 presentations?
21 A. Not necessarily. But as point of
22 fact, I think there are some references in
23 the presentations.
24 Q. And what do they say about those
25 creditors?

1 D. Skeel - Professional Eyes Only
2 A. There are references to the fuel
3 line lenders, and the assumptions about
4 them shift from one presentation to the
5 next.
6 Q. Shift in terms of the size of the
7 fuel line lenders or?
8 A. Shift in terms of scenarios,
9 scenario payouts.
10 Q. If these people, just to take the
11 fuel line lenders, get a payout, again,
12 that doesn't come from God, right? It
13 needs to come from PREPA. And PREPA is
14 going to charge its customers for that
15 somehow --
16 MS. DALE: Objection.
17 BY MR. DESPINS:
18 Q. -- correct?
19 MS. DALE: Calls for speculation.
20 A. Presumably, yes.
21 Q. Okay. And same thing for
22 unsecured creditors, if there are payouts
23 to unsecured creditors, somehow that's
24 going to have to be paid for by PREPA and
25 therefore passed on to its customers?

1 D. Skeel - Professional Eyes Only
2 MS. DALE: Same objection.
3 A. Presumably, yes.
4 Q. But what work did the board do in
5 -- when approving the RSA in terms of
6 determining feasibility of dealing with
7 these other charges; the operating charges
8 with or without federal funding, the fuel
9 line lenders, the unsecured creditors, the
10 pensions?
11 MS. DALE: Objection.
12 MR. BEREZIN: Objection.
13 BY MR. DESPINS:
14 Q. Take us through the process.
15 MS. DALE: Objection to the form.
16 A. What process am I taking you
17 through?
18 Q. The board approved the RSA,
19 correct?
20 A. Correct.
21 Q. And you told me that there was a
22 discussion, at least, or references in
23 terms of other creditors, not bondholders,
24 so fuel line lenders, unsecured creditor.
25 We didn't talk about pensions. I assume

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1 D. Skeel - Professional Eyes Only
2 pension was discussed as well?
3 MR. BEREZIN: Objection to form.
4 BY MR. DESPINS:

5 Q. Right?
6 A. The RSA itself was focusing on
7 the participants, primarily on the
8 participants of -- in the RSA. There is
9 discussion of some of these other factors
10 around the fiscal plan. The fiscal plan
11 has estimates of operating expenses and
12 things of that sort.

13 Q. But it doesn't talk about
14 unsecured creditors, does it?

15 A. I don't believe it talks about
16 unsecured creditors.

17 Q. Okay. And you're familiar with
18 the concept of plan feasibility generally?

19 A. I am familiar with plan
20 feasibility.

21 Q. So sitting here today, do you
22 have a view about feasibility of a plan for
23 PREPA, a plan of adjustment for PREPA?

24 MS. DALE: Objection to the form.

25 A. I'd have to see the plan. I

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1 D. Skeel - Professional Eyes Only
2 would have to see the plan.
3 Q. She liked that answer better than
4 her interruption.

5 So you would have to see the
6 plan.

7 And therefore, sitting here
8 today, you can't opine on that? You can't
9 have a view on that?

10 A. I forget what it is I'm having a
11 view on.

12 Q. Feasibility of a plan of
13 adjustment for PREPA.

14 A. I would need to see the plan.

15 Q. Okay. Let's talk about the T&D
16 transformation. I think you listed one of
17 the benefits of the RSA that it could --
18 sorry, I can't even read my own writing.
19 It can be helpful to the T&D process
20 generally. It's not precisely what you
21 said, but something like that.

22 MS. DALE: Objection to the form.

23 It misstates the testimony.

24 BY MR. DESPINS:

25 Q. Okay. Well, then, you understand

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1 D. Skeel - Professional Eyes Only
2 what I was referring to. Why don't you say
3 it in your own words.

4 MS. DALE: Objection. No
5 question pending there.

6 A. I believe that the RSA could help
7 facilitate a -- the transformation.

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[REDACTED]

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Q. Have you quantified the difference between what you're giving the bondholders and the total amount of their claims as it would translate into a kilowatt per hour charge?

MS. DALE: Objection to form.

1 D. Skeel - Professional Eyes Only
2 BY MR. DESPINS:

3 Q. Do you want me to break that down?

4 A. Yes, please.

5 Q. All right. So right now, you're offering them X, that is, the RSA. And you know what that is. You have a kilowatt per hour charge there, right? There is a cap?

6 A. Right.

7 Q. Okay. Have you ever seen an analysis that shows the difference between that amount, that charge, and what the charge would need to be if we were going to pay the bondholders in full?

8 A. I believe I have seen those comparisons.

9 Q. Okay. And can you share that with me?

10 A. The charge is more and the potential downside is significant, the possibility of the charge mushrooming.

11 Q. Well, I was asking you what the charge is to pay them in full. So if that's the charge, it's not going to

1 D. Skeel - Professional Eyes Only
2 mushroom. That is the charge.

3 Have you ever seen that figure?

4 MS. HELSTEAD: Objection. Form.

5 A. I am not sure whether I have or not, that particular figure.

6 Q. Okay. Do you think it would be two cents more, three cents more, ten cents more? Do you have any sense?

7 MS. DALE: Objection to the form.

8 A. I don't remember.

9 Q. So when you say that it could have a significant cost because the operators will not know what the charge is, what do you base that on?

10 MS. DALE: Objection to the form.

11 A. What I am thinking about is presentations I have seen of the potential shifts in the amount of the transition charge under both the bonds, just the bonds assuming full payment and under the pre-Title III RSA. And those transition charges were not capped.

12 Q. No, I understand they were not capped, but did they reflect the full

1 D. Skeel - Professional Eyes Only
2 amount?
3 A. I believe I saw presentations
4 that reflected the full amount, yes.
5 Q. And is that what you believe
6 would happen if this RSA transaction is not
7 approved, the board litigates with the
8 bondholders, the board loses that
9 litigation, that they would get their -- a
10 full charge for the repayment in full of
11 their bonds?
12 A. They have taken the position that
13 they are entitled to full payment, plus
14 interest throughout.
15 Q. I understand that's their
16 position. That's my position too.
17 What's your view of whether
18 that's going to happen?
19 MS. DALE: Objection. Calls for
20 a legal conclusion.
21 Please do not discuss any
22 information that you might have
23 received from your counsel. If you can
24 disentangle, you know, just counsel's
25 communications to you on this point, go

1 D. Skeel - Professional Eyes Only
2 ahead.
3 A. Yeah, I was about to say I didn't
4 think that was your position.
5 Q. No, no, it's my position as to my
6 claims that I should be paid in full as
7 well.
8 A. But not your position as to the
9 unsecured creditors' claims.
10 Q. No, no. That's what I meant.
11 A. It may show up somewhere else.
12 Q. So --
13 MS. DALE: Does everybody want to
14 clarify the record?
15 (Laughter.)
16 BY MR. DESPINS:
17 Q. But there was a question pending.
18 So my question was, what do you
19 believe occurs if there's no RSA, the board
20 litigates with the bondholders, they
21 prevail, and what do you think happens at
22 that point to the kilowatt her hour rates
23 charged to customers?
24 MS. DALE: Same objections.
25 A. If all that happens, I believe

1 D. Skeel - Professional Eyes Only
2 they end up going up.
3 Q. For the full amount that's owed
4 to the bondholders?
5 A. Correct.
6 Q. Okay. And the analyses you've
7 seen reflect that? Meaning, some of the
8 scenarios you've seen that were represented
9 to you reflect that scenario?
10 A. Yes.
11 Q. Okay. And do you know if rate
12 increases need to be approved by a
13 regulator in Puerto Rico?
14 A. I believe they do, yes.
15 Q. Okay. And do you believe that
16 regulatory would increase the rates full
17 tilt to pay the bondholders in full?
18 MS. DALE: Objection.
19 A. Again, I don't know.
20 Q. Don't you think that that's a
21 critical part of the analysis when you look
22 at the scenario we've been discussing?
23 MS. DALE: Objection.
24 A. There are a variety of elements
25 that matter a lot. That matters. The rate

1 D. Skeel - Professional Eyes Only
2 covenant in the bond indenture also
3 matters.
4 Q. So tell me about the rate
5 covenants.
6 How do you think that's relevant?
7 A. Because if the bonds went back to
8 their original status quo, they have a
9 right to seek a receiver and to ask for
10 rate increases to pay them.
11 Q. Well, that's if they're
12 unimpaired on their plan.
13 But you don't think that --
14 A. You just said the premise of this
15 question was --
16 Q. No.
17 A. -- that they get everything they
18 asked for.
19 Q. No. The premise was, you
20 litigate with them and you lose the issue
21 of whether -- of the scope of their
22 security interest and all that.
23 And so the question I have for
24 you is, you're not under the impression
25 that their rate covenant and the

1 D. Skeel - Professional Eyes Only
2 receivership covenants somehow would ride
3 through Chapter 11, are you?

4 MS. DALE: Objection.

5 A. No.

6 MR. HAMERMAN: Objection.

7 A. You premised the question on them
8 getting everything they asked for. So if
9 they got everything they asked for, they
10 would get that too.

11 You can change your premise.

12 Q. No, the premise was the
13 litigation regarding the scope and the
14 extent of the security interest. And if we
15 lose that litigation, what happens then?

16 A. They get paid in full, plus
17 interest.

18 Q. Because you think the PREB would
19 increase the rates as necessary to pay them
20 in full?

21 A. I am not speculating about what
22 PREB would do.

23 Q. Well, you are if you're saying
24 they're getting paid in full.

25 You're saying PREB would increase

1 D. Skeel - Professional Eyes Only
2 the rates?

3 A. I'm saying they -- if the lien
4 challenge litigation were unsuccessful,
5 they would have an entitlement to 100 cents
6 on the dollar, plus interest, and I'm not
7 speculating as to whether and how they
8 would get that.

1 D. Skeel - Professional Eyes Only

11 MR. DESPINS: Can we take a
12 ten-minute break -- oh, actually, it's
13 1. Should we take a lunch break? I
14 didn't realize it was that late.

15 MS. DALE: Let's just go off the
16 record.

17 THE VIDEOGRAPHER: The time is
18 12:51 p.m. Going off the record.
19 (Recess is taken.)

1 D. Skeel - Professional Eyes Only
2 A F T E R N O O N S E S S I O N
3 (Time noted: 1:27 p.m.)
4 * * *

5 D A V I D S K E E L, J.R., resumed and
6 testified as follows:

7 (Skeel Exhibit 6, Email dated
8 5/6/19 from Concannon to Winton and
9 others, Bates-stamped AHG-0004401,
10 marked for identification, as of this
11 date.)

12 THE VIDEOGRAPHER: The time is
13 1:27 p.m. We are on the record.
14 EXAMINATION BY (Cont'd.)

15 MR. DESPINS:

16 Q. Okay. Professor Skeel, you have
17 Exhibit 6 before you. For the record,
18 AHG4401, email from Kevin Concannon, sent
19 on May 6, 2019, to James Winton at
20 Citi.com.

21 Did you get a chance to review
22 this?

23 A. I haven't yet. Can I -- I mean,
24 I had started to.

25 Q. Go ahead.

1 D. Skeel - Professional Eyes Only
2 (Document review.)
3 A. Okay.
4 Q. So what does this refer to?
5 A. It looks like -- it's referring
6 to a sale of some bonds.
7 Q. PREPA bonds, correct?
8 A. Correct.
9 Q. By whom to whom?
10 A. By Angelo Gordon to Citigroup.
11 Q. Have you ever heard of this
12 transaction or any similar transactions
13 before today?
14 A. I am not familiar with this
15 transaction.
16 Q. Or any similar transactions?
17 A. Or any similar transactions.
18 Q. Okay. But that's something that
19 you're going to look into or?
20 MS. DALE: Objection.
21 A. I will take note of it, yes.
22 Q. Okay. Going back to the
23 Brownstein declaration, paragraph --
24 MS. DALE: 5.
25 THE WITNESS: Thanks.

1 D. Skeel - Professional Eyes Only
2 BY MR. DESPINS:
3 Q. -- 29, if you could read that and
4 let me know when you're ready.
5 MS. DALE: Page 11.
6 THE WITNESS: Thank you.
7 (Document review.)
8 BY MR. DESPINS:
9 Q. So you see there is a reference
10 to supporting holders having to stay
11 patiently on the sidelines and wait until
12 the effective date of the confirmed plan
13 before receiving the new securitization
14 bonds.
15 Do you see the reference to that?
16 A. Yes, I do.
17 Q. And do you understand that is the
18 basis pursuant to which these supporting
19 holders are receiving some form of
20 consideration under the RSA?
21 MS. DALE: Objection to the form
22 of the question.
23 A. I'm not following the question.
24 Q. Okay. So basically, according to
25 Mr. Brownstein, they have to wait on the

1 D. Skeel - Professional Eyes Only
2 sidelines until plan confirmation.
3 And is your understanding that
4 they are receiving payments or claims to
5 compensate them for that or to incentivize
6 them to do that?
7 A. Yes. This paragraph doesn't say
8 that, but that is my understanding.
9 Q. Okay. So, again, you are a
10 bankruptcy professor.
11 Do you know of that standard as a
12 basis to pay creditors pre-confirmation of
13 a plan?
14 MS. DALE: Objection to the form.
15 Outside the scope. Seeking -- it's
16 speculative, potentially seeking a
17 legal conclusion.
18 A. Can you reask the question?
19 Q. So the question is, is that a
20 legal basis to be receiving pre-plan
21 confirmation distributions?
22 MS. DALE: Same objections.
23 A. And I'm not sure what you mean,
24 is that a legal basis.
25 Q. The fact that you have to wait

1 D. Skeel - Professional Eyes Only
2 until confirmation to get paid, is that a
3 legal basis to award pre-plan confirmation
4 distributions to creditors?
5 MS. DALE: Objection. Seeks a
6 legal conclusion. Speculative.
7 A. It seems to me that that might be
8 a factor you would take into account.
9 Q. But I'm talking from a legal
10 point of view.
11 Let me ask you this: Are
12 creditors, in your understanding, entitled
13 to receive pre-plan distributions in
14 bankruptcy --
15 MS. DALE: Objection. Calling
16 for a legal conclusion.
17 BY MR. DESPINS:
18 Q. -- generally.
19 MS. DALE: Speculative. Outside
20 the scope of this deposition.
21 A. It depends on what you're talking
22 about. If they are oversecured, they are
23 entitled to receive interest payments.
24 Q. Prior to confirmation?
25 A. That varies by impression, but I

1 D. Skeel - Professional Eyes Only
2 don't know. I don't know when they get
3 them.
4 Q. Okay. Other than that,
5 oversecured, do you know any other basis to
6 make payments, pre-confirmation payments to
7 creditors in a bankruptcy case?
8 MS. DALE: Same set of
9 objections.
10 A. Not that I can think of sitting
11 here right now.
12 Q. Okay. Let's talk about the legal
13 issues that are being settled here in the
14 RSA.
15 Did you ever see -- I'm not
16 asking you what it said, but did you ever
17 see a probabilistic analysis, and by that,
18 I mean a percentage of this issue, we have
19 a 50 percent chance of winning; this issue,
20 we have a 80 percent chance of winning; or
21 anything of the sort before approving the
22 RSA?
23 MS. DALE: You can answer that
24 "yes" or "no."
25 A. No, not a probabilistic --

1 D. Skeel - Professional Eyes Only
2 Q. Okay.
3 A. Not a probabilistic estimate with
4 numbers attached to it.
5 Q. Okay. With percentages attached
6 to it?
7 A. With percentages attached to it.
8 Q. Thank you.
9 And what about the worst-case
10 scenario? You've talked about best-case,
11 worse-case.
12 What is your understanding of the
13 worst-case scenario for the bondholders,
14 now, focusing on their downside?
15 First of all, did you ever see
16 such an analysis? Not what it said, just
17 whether you saw such an analysis?
18 A. When you say "saw such an
19 analysis," you mean with probabilities
20 attached to it or just --
21 Q. No, generally, now. I'm moving
22 off of the percentage issue. I'm just
23 asking whether you've ever seen an analysis
24 of the worst-case scenario from the
25 bondholders' point of view?

1 D. Skeel - Professional Eyes Only
2 A. I believe I have.
3 Q. Okay.
4 A. We've had lots of discussion of
5 the different possibilities.
6 Q. Okay. And I want to be careful.
7 I'm not asking you to reveal what that
8 presentation was, but rather whether you
9 recall seeing any mention of the words
10 "nonrecourse"?
11 A. I don't know if the specific
12 words were there. Certainly the objection
13 argues that there is very limited recourse.
14 Q. When you refer to the objection,
15 are you talking about the July 2nd
16 complaint?
17 A. Yes.
18 Q. Okay. Fair enough.
19 Do you understand the term
20 "nonrecourse" as a term of art in
21 bankruptcy?
22 A. Yes, I do understand it.
23 Q. Like a claim that is nonrecourse,
24 you understand what that means?
25 A. Yes, I do.

1 D. Skeel - Professional Eyes Only
2 Q. Just in your -- what does it
3 mean, your understanding of it?
4 A. Ordinarily, a nonrecourse claim
5 is a claim where the creditor is entitled,
6 it's usually a secured creditor, is
7 entitled to seek recovery from its
8 collateral but not from anywhere else.
9 Q. And is that relevant in this
10 case, that term? Is that applicable in
11 this context, in the PREPA case?
12 MS. DALE: Objection to the form
13 of the question and to the extent
14 seeking a legal conclusion.
15 A. I don't know if that specific
16 concept is. The core argument or one of
17 the core arguments in the lien objection
18 has a similar form. The core argument is
19 that the creditors are entitled to only to
20 funds that are in the sinking fund.
21 Q. Yeah, but you understand that
22 when you're a nonrecourse, you don't even
23 have an unsecured claim?
24 MS. DALE: Objection.
25 A. Ordinarily if you're nonrecourse,

1 D. Skeel - Professional Eyes Only
2 you do have a claim.
3 Q. Okay. That's your understanding?
4 A. A core claim.
5 Q. Pardon?
6 A. You have a core claim.
7 Q. So, for example, in this case,
8 the bondholders are owed more or less 8
9 billion or so.
10 Your understanding is that even
11 if we were successful in avoiding all their
12 liens, they would still have an unsecured
13 claim for 8 billion and change?
14 A. They would argue they do. I know
15 there is an argument they would -- I
16 believe there is an argument that they
17 would not even have that but that is
18 contested, is my understanding.
19 Q. What would be that argument that
20 they don't even have that?
21 A. I can't construct it here.
22 Q. And what would be their argument?
23 That they have such a claim, an unsecured
24 claim?
25 A. Ordinarily, you have an unsecured

1 D. Skeel - Professional Eyes Only
2 claim. You have a claim if you're owed
3 money by an entity.
4 Are we putting aside this for
5 now?
6 Q. Yes, for now.
7 (Skeel Exhibit 7, Text messages
8 dated 8/31/18 to Skeel, Bates-stamped
9 FOMB_9019_MOBILE_00000127 through 143,
10 marked for identification, as of this
11 date.)
12 BY MR. DESPINS:
13 Q. So if you can read that and let
14 us know when you're ready.
15 (Witness complies.)
16 A. Okay.
17 Q. Can you --
18 MR. DESPINS: First of all, let's
19 identify this. I apologize. So it's
20 FOMB 00127 through to 143. It starts
21 with -- these appear to be text
22 messages between Ana Matos Santos and
23 Professor Skeel, with the first one
24 being on August 31st, 2018.
25 BY MR. DESPINS:

1 D. Skeel - Professional Eyes Only
2 Q. Can you, after reviewing this,
3 can you give us a sense of what you guys
4 are talking about and what is the general
5 topic?
6 A. I'm not certain. I think it's
7 probably negotiations relating to COFINA or
8 the Commonwealth.
9 Q. If you look at the last text,
10 page 143, "I think the impact of the
11 committee walking is not getting the
12 attention that it needs."
13 Are you sure this is going to
14 refer to PREPA or -- I don't know. I'm --
15 A. I don't -- I don't know. I'm
16 pretty certain it doesn't refer to -- there
17 is a reference to PREPA in here --
18 Q. Yeah.
19 A. -- but this is not referring to
20 PREPA. I think it's referring to COFINA,
21 but I'm not sure.
22 Q. Because I thought there was a
23 reference to PREPA in here. Okay. So
24 that's 140, 141. That seems to refer to
25 PREPA, right?

1 D. Skeel - Professional Eyes Only
2 It says, "The prioritization of
3 generation transformation and the focus on
4 killing the beast everywhere feels really
5 bad to me."
6 There's no generation
7 transformation with COFINA, right?
8 A. No, but it refers to "killing the
9 beast everywhere," which I assume is more
10 than just -- I mean, I'm not sure what it
11 means, but I don't think that's
12 PREPA-specific.
13 Q. So what does "killing the beast"
14 mean?
15 MS. DALE: Objection.
16 A. I'm not sure. I mean, I think it
17 means transforming everything, but I'm not
18 sure.
19 Q. Okay. What about in 140 when you
20 say, "I have the same feeling. Too many
21 things seems too sleazy"?
22 This is you now.
23 A. This is I think a response to
24 whatever we're talking about to the prior
25 -- to the prior text. But I -- I don't

1 D. Skeel - Professional Eyes Only
2 think they're about PREPA. I think they're
3 about COFINA or the Commonwealth, although
4 I don't remember the conversation.

5 Q. But then on 137, you say the --
6 (as read) "Though the local folks,
7 quote/unquote, is largely massive New York
8 law firm that was pushing its own Hail Mary
9 reorg plan without talking to bondholders."

10 MS. DALE: Is there a question?

11 BY MR. DESPINS:

12 Q. What does that mean? This is
13 from you.

14 A. I'm not sure, but I don't think
15 it's PREPA because there aren't local
16 bondholders that have been a focus of PREPA
17 that I'm aware of.

18 Q. Were these text messages sent
19 during a meeting or a call? It appears
20 that you're doing live, live commentary on
21 something that is happening before you. I
22 could be wrong.

23 A. It's speculating, but I think
24 it's either a meeting or a call, and these
25 are just kind of stream of consciousness

1 D. Skeel - Professional Eyes Only
2 comments during whatever is happening
3 during the meeting.

4 Q. Because, again, 133 refers to the
5 unions. There are no unions in COFINA.
6 Let me just...

7 MS. DALE: Wait for a question.

8 BY MR. DESPINS:

9 Q. Okay. So nothing refreshes your
10 recollection?

11 A. No.

12 Q. Okay.

13 (Skeel Exhibit 8, Text messages
14 dated 11/19/18 to Skeel, Bates-stamped
15 FOMB_9019_MOBILE_00000144 through 154,
16 marked for identification, as of this
17 date.)

18 BY MR. DESPINS:

19 Q. So same question, if you can
20 review this and let us know when you're
21 ready.

22 (Witness complies.)

23 A. Okay.

24 Q. So first big picture question is:
25 Does this relate to PREPA?

1 D. Skeel - Professional Eyes Only

2 A. I think this one does.

3 Q. Okay. It talks about -- just to
4 identify, for the record, we are talking
5 about document FOMB 144 through 155 with
6 the first one on top being dated
7 November 19, 2018.

8 So now we're talking
9 post-preliminary RSA but pre-May 2019 RSA.

10 So what is this reference to the
11 "government is retrading the RSA a bit"?

12 A. I'm not certain. It could be a
13 reference to the government wanted to push
14 off the start of the transition charge. It
15 could be that. It could be something else.

16 MS. DALE: I'm just going to
17 caution you not to speculate if you're
18 not sure.

19 BY MR. DESPINS:

20 Q. And then there's a -- on 148, "I
21 wouldn't cry if we lost Assured. That was
22 tentative and made it more expensive."

23 What are you referring to there?

24 A. I think I'm referring to
25 negotiations with Assured to bring them

1 D. Skeel - Professional Eyes Only
2 into the RSA.

3 Q. Okay. 150, your text,
4 "Absolutely. And I completely agree we
5 should honor the deal we made."

6 You're referring to the
7 preliminary RSA at this point?

8 A. I think so.

9 Q. And 153, again from you, "Amen, I
10 don't love the deal, but we agreed to it."

11 And the response at 154, "I'm in
12 the same place. I don't love it either."

13 And last one is "What we agreed."

14 So the point there is that even
15 though you didn't like the deal, you felt
16 bound because you had signed the
17 preliminary RSA or?

18 MS. DALE: Objection.

19 A. I do like the deal. And I am of
20 the view that overall, it's a good deal.
21 It's not perfect, but it's a good deal.

22 Q. So when did you start liking the
23 deal?

24 A. I liked it when I voted on it. I
25 voted for it.

1 D. Skeel - Professional Eyes Only
2 Q. But what did you mean by "I don't
3 love the deal"?
4 A. I'm not sure what I mean here.
5 I'm not sure precisely what we're talking
6 about.
7 Q. Well, what deal are we talking
8 about? The RSA.
9 A. We're talking about the RSA --
10 Q. Okay.
11 A. -- but we seem to be talking
12 about different pieces of the RSA.
13 Q. What did you mean when you say
14 "Natalie still doesn't understand the BR
15 dynamics"?
16 "BR" means bankruptcy, I assume
17 or...
18 A. Presumably, yes.
19 Q. Okay. That's 151.
20 What did you mean by that?
21 A. I have no idea what I meant.
22 Q. You have a lot of texts that are
23 floating like this where you have no clue
24 what was said?
25 A. These are stream of -- this is in

1 D. Skeel - Professional Eyes Only
2 a meeting, texting back and forth. I mean,
3 I just don't remember what the specific
4 context was.
5 Q. Okay.
6 (Skeel Exhibit 9, Email chain
7 beginning with email dated 4/26/19 from
8 Castiglioni to Batlle with attachments,
9 Bates-stamped CGMIRSA_001458 through
10 1465, marked for identification, as of
11 this date.)
12 BY MR. DESPINS:
13 Q. Just to make sure we have the
14 same document, FO -- I'm sorry, not FOMB.
15 This must be Citibank. 1458 through 1465?
16 A. Just a minute.
17 (Document review.)
18 Q. And dated 4/25. April 25, 2019.
19 So the same thing, if you can
20 read it and let us know when you're ready.
21 A. Read the whole thing or what --
22 Q. Well, actually, I'm going to
23 focus on page 1465.
24 (Document review.)
25 A. Okay.

1 D. Skeel - Professional Eyes Only
2 Q. So, again, focusing on page 1465,
3 this appears to be a document prepared by
4 Citibank for the board.
5 Is that your understanding as
6 well?
7 A. That's what it looks like.
8 Q. Okay. So 1465 has Benefits and
9 Considerations, and I just want to ask you
10 some questions about some of the items, the
11 points that are made.
12 Under Benefits, third bullet,
13 "Creditors are taking a meaningful haircuts
14 to claims."
15 How would you -- do you think
16 that's accurate?
17 A. Do I think that under the RSA,
18 the permanent RSA, do I think that under
19 the permanent RSA creditors are taking
20 meaningful haircuts?
21 Yes, I do think that.
22 Q. Okay. Three bullets down from
23 there, it says, "It may result in a stay of
24 receiver motion."
25 Just to put this in context, 4/25

1 D. Skeel - Professional Eyes Only
2 is a few days before the release of the --
3 what you call the permanent RSA, right, on
4 May 3rd of 2019?
5 A. Correct.
6 Q. Okay. So at that stage, it was
7 still "may," not "will."
8 Will you agree with that?
9 A. I agree that's what that said. I
10 would have expected that we were pretty
11 confident at this point the receiver motion
12 would be stopped.
13 Q. But in fact, it wasn't withdrawn
14 for many months thereafter, right? Do you
15 know that?
16 A. I don't remember that.
17 MS. HELSTEAD: Objection to form.
18 BY MR. DESPINS:
19 Q. Okay. Going on the right-hand
20 side, the top one, "Power revenue bonds may
21 be unsecured because perfection was
22 defective. Successful litigation could
23 result in lower recoveries."
24 Is that consistent with the other
25 presentations that you've received on this

1 D. Skeel - Professional Eyes Only
2 issue of the litigation risk to the
3 bondholders?
4 MS. DALE: Objection to the form.
5 A. Yes, in the sense that we
6 received multiple presentations that talked
7 about the effect if we lost the lien
8 challenge and the effect if we --
9 Q. If we won?
10 A. -- won the lien challenge.
11 Q. The third bullet still under
12 Considerations, it says, "Total resulting
13 cost of electricity plus legacy charges is
14 unclear."
15 What does that mean?
16 A. It means that the total costs are
17 unclear. I'm not sure what the specific
18 point here is. I don't remember -- or if I
19 knew exactly what the, what the uncleanness
20 referred to as.
21 Q. To the parts that are other than
22 the legacy charge.
23 You remember I was asking you
24 earlier before lunch about when if I'm a
25 PREPA customer I get a bill, and built in

1 D. Skeel - Professional Eyes Only
2 there, there will be a special charge for
3 the legacy bonds?
4 A. Right.
5 Q. And then there is the rest. And
6 don't you think that's what this refers to,
7 the fact that this fixes the legacy charge,
8 but the total cost is unclear because we
9 don't know?
10 A. That certainly is a plausible
11 reading of that line.
12 Q. Okay. Next, "Does not eliminate
13 lien litigation or litigation or plan
14 confirmation with non-supporting
15 bondholders."
16 Remember before lunch we had a
17 discussion what I called the disgruntled 10
18 percent, as a joke, because I don't know if
19 they're disgruntled or not, or they're just
20 missing in action? But do you understand
21 -- what does this refer to?
22 A. I think they're saying that there
23 still is the possibility of litigation with
24 the non-supporting bondholders, at this
25 point 10 percent who are not part of the

1 D. Skeel - Professional Eyes Only
2 RSA.
3 Q. In the next bullet, "If
4 transformation is unsuccessful, this deal
5 still applies."
6 A. I read that as saying, if this
7 deal gets locked in, it would be locked in.
8 It would be fixed.
9 Q. So let's go through that scenario
10 for a second. Let's assume in June of next
11 year, I don't know, the transformation is
12 disappointing or they all bail out. We are
13 talking about again T&D transformation now.
14 And the board says, well, it doesn't make
15 sense to do this deal anymore.
16 Do you have a sense of how much
17 money or benefits would have been given to
18 the bondholders at that point?
19 MS. DALE: Objection. Calls for
20 speculation.
21 A. I don't know exactly.
22 Q. Well, 5 million?
23 A. I don't have a guess of exactly
24 what would be given them by then.
25 Q. So you don't know if it's 100

1 D. Skeel - Professional Eyes Only
2 million, 200 million, 500 million, a
3 billion?
4 A. I don't know what the number is.
5 Q. Are you still supporting this
6 deal today?
7 A. Yes, I am.
8 Q. But you don't know what the
9 amounts are?
10 A. I know what the amounts under the
11 deal are. I don't know -- I don't know
12 what the exact payments would be by some
13 future date that you've picked.
14 Q. No, I'm not asking you for exact
15 payments. I won't hold you to 100 million.
16 You know, I'll give you 100 million leeway.
17 So 5 million, 100 million, 200
18 million, a billion?
19 A. I don't know. I mean, I could
20 guess, but I don't know.
21 MS. DALE: Or he could show you a
22 document, which he chooses not to do.
23 BY MR. DESPINS:
24 Q. Did you ever see a presentation
25 showing the payments that the bondholders,

1 D. Skeel - Professional Eyes Only
2 or the benefits and payments the
3 bondholders would retain if the board
4 decided no transformation, no T&D
5 transformation?

6 A. Can you clarify the rest -- the
7 other states of the world? Has the RSA
8 been approved in 2019 --

9 Q. Yeah, RSA is approved today, and
10 we're in 2020 and, oh, my God, the T&D
11 process didn't go well, unfortunately. So
12 the board decides we're not going forward
13 with the transformation and -- first of
14 all, do you understand that the board can
15 do that, can back out of this deal?

16 A. They can. There are -- at that
17 point you're describing, there are
18 provisions that define what happens based
19 on why you back out.

20 Q. Did you ever see a presentation
21 that showed what happened under that
22 scenario of, you know, what -- that shows
23 how much the board would have doled out to
24 the bondholders and -- under that scenario?

25 MS. DALE: Objection.

1 D. Skeel - Professional Eyes Only
2 A. We have seen presentations or
3 discussions of what the default and
4 backing-out provisions provide for.

5 Q. No, I understand that. I am sure
6 you have seen provisions that describe
7 that. But we have not seen produced any
8 document that shows the dollars associated
9 with a, what I call, a busted deal.

10 Do you know what I mean by that?
11 A failure to proceed with the T&D
12 transaction.

13 A. And what is the question?

14 Q. Have you ever seen one?

15 A. Not one that shows specific
16 dollars that I am aware of.

17 Q. Okay. Is that irrelevant to you?

18 A. What's most relevant to me are
19 what are the provisions and what generally
20 they provide for.

21 Q. Just to be clear, when I was
22 asking these questions about a busted deal,
23 you understand that under the RSA, there is
24 a mechanism for the board not to proceed
25 with the securitization transaction?

1 D. Skeel - Professional Eyes Only
2 A. Yes, I'm aware of that provision.
3 Q. Okay. And that's what we've been
4 talking about?

5 A. I assumed as much --

6 Q. Okay. Okay.

7 A. -- but that wasn't the question
8 you asked me.

9 Q. But, okay, that's what you were
10 responding to?

11 A. I was responding to the questions
12 you were asking me.

13 Q. Okay. Well, so let me ask you
14 the same questions.

15 What's your understanding of what
16 -- what is the understanding what happens
17 if a securitization termination occurs?

18 A. There is a stipulated treatment
19 under the RSA.

20 Q. Okay. So that -- these are the
21 questions that were asking you about the
22 amounts payable and all that?

23 A. Right.

24 Q. Is that what you're responding
25 to?

1 D. Skeel - Professional Eyes Only

2 A. You were asking what I took to be
3 more open-ended questions, and I was having
4 trouble figuring out what you were asking.

5 Q. Okay. So let's go through that.

6 Do you know under that scenario
7 we just described how much money the
8 bondholders would have received --

9 A. I don't. I know what the
10 percentage payment is, more or less.

11 Q. I understand.

12 But -- and when I was asking you
13 have you ever seen presentations showing
14 the dollar amounts at different points in
15 time when you exercised that right, have
16 you ever seen that, I think the answer was
17 no, but I want to confirm that's what you
18 meant.

19 A. I don't believe I have.

20 Q. Okay. What's your understanding
21 of when a securitization termination can be
22 exercised?

23 A. My understanding is when the
24 government -- if the government parties
25 were to determine that the securitization

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1 D. Skeel - Professional Eyes Only
2 would interfere with the transformation, it
3 can exercise that.

4 Q. Okay. And is the board the only
5 party that has the right to terminate on
6 that basis?

7 A. I believe any of the government
8 parties can terminate.

9 Q. What is your level of comfort
10 that the other government parties would not
11 exercise that right?

12 MS. DALE: Objection to the form
13 of the question.

14 A. I believe that the government
15 parties want this transformation to go
16 forward. Comfort is never 100 percent, but
17 I have a relatively high degree of comfort.

18 Q. Do you remember Law 80? Does
19 that ring a bell?

20 A. Yes, it does.

21 Q. So in that case the governor and
22 the board agreed on something that should
23 happen with the legislature and that didn't
24 happen, correct?

25 A. That is correct.

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1 D. Skeel - Professional Eyes Only

2 A. That's debatable.

3 Q. So tell me, who controls it?

4 A. PREPA could terminate the RSA.

5 Q. And you don't think the governor
6 has any impact on that?

7 A. I didn't say that.

8 Q. Okay. What is your belief? That
9 the governor could dictate that result?

10 A. I'm not going to speculate about
11 lines of authority.

12 (Skeel Exhibit 10, Email dated
13 5/21/19 from Battle to CEO@aafaf.pr.gov
14 with attachments, Bates-stamped
15 PREPA_RSA0028795, marked for
16 identification, as of this date.)

17 (Document review.)

18 BY MR. DESPINS:

19 Q. So same thing, if you could
20 review, but I will direct you to certain
21 pages, but tell me when you're ready.

22 (Witness complies.)

23 A. Okay.

24 Q. So just to identify the document,
25 starting at 28795, PREPA 28795 through

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1 D. Skeel - Professional Eyes Only
2 Q. And does that lead you to believe
3 that the outcome of a determination on this
4 issue by other government parties is not
5 predictable?

6 MS. DALE: Objection.

7 A. I wouldn't say that. That was a
8 particular set of facts and the government
9 responded in a particular way.

10 Q. Which governor agreed to the RSA,
11 what you called the permanent RSA, the
12 May 2019 RSA?

13 A. The governor, when it was agreed
14 to, was Governor Rosselló.

15 Q. Why did the government get a
16 termination right?

17 A. I don't know. Yeah, I don't
18 know.

19 Q. Could the next governor exercise
20 a termination right? And by that, I mean
21 the securitization termination right.

22 A. It's not keyed to the governor.
23 There are government -- I don't believe. I
24 believe it's keyed to AAFAF and PREPA.

25 Q. Okay. But who controls PREPA?

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1 D. Skeel - Professional Eyes Only

2 PREPA 2810 -- no, 28810, 28810. Sorry.

3 This appears to be another
4 presentation by Citibank to -- is it to the
5 Oversight Board or do you have a sense of
6 that?

7 A. No. Well, it looks like the
8 presentation was one that we saw, but
9 that's not who it's being sent to. It
10 looks like it's being sent by Ankura to
11 AAFAF.

12 Q. Okay. The date on this is
13 May 21st, 2019, correct?

14 A. That is correct.

15 Q. So that's after the release of
16 the permanent RSA, as you referred to it?
17 After the release of the May 3rd, 2019,
18 RSA?

19 A. That is correct.

20 Q. Okay. So let's go to page 28805.

21 A. 28805. Okay. Can I read it?

22 Q. Sure. Sure.

23 (Document review.)

24 A. Okay.

25 Q. So from the bottom, the third

1 D. Skeel - Professional Eyes Only
2 bullet up from the bottom, "If
3 successful..."
4 Do you see that sentence?
5 A. Yes, I do.
6 Q. "... a challenge to the asserted
7 secure interests would leave non-supporting
8 bondholders secured only by the funds in
9 the sinking fund account approximately \$16
10 million."
11 Is this consistent again with the
12 type of presentations you had been
13 receiving from your advisers regarding the
14 challenge to the bondholders' security
15 interest?
16 A. We had seen these kinds of
17 arguments, yes.
18 Q. And the last bullet says, "Absent
19 full consensus on a plan by PREPA
20 bondholders, the Oversight Board will
21 likely pursue this challenge against
22 non-supporting holders for purposes of plan
23 confirmation."
24 Do you see that?
25 A. Yes, I do.

1 D. Skeel - Professional Eyes Only
2 Q. So did you understand that, that
3 litigation that is being settled with the
4 ad hoc members might go forward with other
5 parties when you approve the RSA?
6 A. Yes, if there are parties who
7 don't ultimately approve the RSA, yes.
8 Q. Okay. So therefore, the cost of
9 litigation for that would be incurred
10 regardless?
11 A. It may or may not be the same
12 cost but...
13 Q. Okay. Okay. Then I'm going to
14 page 28808. And so we'll go back to that
15 in a second, but I have some background
16 questions I want to ask you first.
17 A. But before I look at it --
18 Q. Feel free to look at it, yes. Go
19 ahead.
20 (Document review.)
21 A. Okay.
22 Q. So first some background
23 questions. I'll admit that I'm not sure
24 whether we covered that precisely, but
25 you'll tell me if we have.

1 D. Skeel - Professional Eyes Only
2 When you approved the RSA, did
3 you consider the effect of the RSA on other
4 creditors, meaning, non-bondholders? By
5 that I mean, fuel line lenders --
6 MR. HAWKINS: Asked and answered.
7 BY MR. DESPINS:
8 Q. -- pensions or unsecured
9 creditors?
10 MR. HAWKINS: Objection. Asked
11 and answered. You spent a lot of time
12 on that?
13 MS. DALE: True, but...
14 MR. DESPINS: Okay, but he can
15 still answer the question.
16 A. We focused primarily on the
17 signatories to the RSA.
18 Q. Okay. So did you ever consider
19 whether this deal could leave other
20 creditors with no recoveries in the PREPA
21 case?
22 A. In general terms, I think we
23 probably did. I don't remember.
24 Q. In general terms, how would you
25 have done that?

1 D. Skeel - Professional Eyes Only
2 A. Well, at various points, we
3 talked about implications for fuel line
4 lenders and different possible payouts to
5 fuel line lenders, but we focused primarily
6 on the signatories.
7 Q. But let's put aside the fuel
8 lenders for now, and let's talk about the
9 unsecured creditors.
10 What discussions were there about
11 the impact of this RSA on unsecured
12 creditors?
13 A. I don't remember.
14 Q. You don't remember any?
15 A. I do not.
16 Q. Okay. Did you understand when
17 you were approving the RSA that you were
18 giving the bondholders a veto over some
19 form of distributions to unsecured
20 creditors?
21 MS. DALE: Objection.
22 MR. HAWKINS: Objection.
23 A. I don't know.
24 Q. Do you see on this page 28808, in
25 the middle there it says, "Additional

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2 indebtedness, to the extent permitted by
3 applicable law, may be issued for the
4 following purposes."

5 Do you see anything in there
6 about issuing indebtedness to other legacy
7 creditors, meaning other prepetition
8 creditors?

9 MS. DALE: Objection. I'm sorry,
10 Luc, where are you pointing us to on
11 8809?

12 MR. DESPINS: No, 28808 and
13 28809.

14 MS. DALE: Got it.

15 BY MR. DESPINS:

16 Q. Whether you see in there any
17 reference to indebtedness to -- given as
18 distributions to other legacy creditors,
19 such as unsecured creditors?

20 A. I do not, as in this description
21 of additional indebtedness that can be
22 taken on, no, I do not see it in those
23 bullet points.

24 Q. Would it surprise you to
25 understand that in fact the bondholders

1 D. Skeel - Professional Eyes Only
2 have a veto over any such additional
3 indebtedness for the purpose of providing a
4 distribution to let other legacy creditors?

5 MS. DALE: Objection.
6 Foundation.

7 MR. BEREZIN: Objection to the
8 form.

9 A. I wouldn't know one way or the
10 other.

11 Q. Is that something that is
12 important to you?

13 A. It's something I would take into
14 consideration if it were presented to me as
15 something to be deciding about.

16 Q. But was it presented to you?

17 A. I don't know. And I note on
18 that, I don't know that we ever saw this
19 document. This may well have been a
20 document that was prepared for PREPA. Citi
21 has been working both with the government
22 and with us, so I don't know that I've ever
23 seen this particular document before.

24 Q. But you've seen the RSA itself,
25 right?

1 D. Skeel - Professional Eyes Only

2 A. I've seen the RSA, yes.

3 Q. And you saw the schedules to the
4 RSA, the attachments to the RSA?

5 A. I think I have seen them.

6 Q. Okay. Sitting here today, do you
7 have any sense of whether there is -- there
8 could be any distributions to unsecured
9 creditors after the RSA is approved?

10 MS. DALE: Objection.

11 A. I don't know.

12 Q. Have you ever seen -- strike
13 that.

14 You're familiar with
15 restructuring support agreements generally,
16 not in this case, but generally? You're
17 familiar with that concept?

18 A. Yes, I am.

19 Q. Or a Plan Support Agreement?

20 That rings a bell?

21 A. Yes, it does.

22 Q. Have you ever seen a Plan Support
23 Agreement or a Restructuring Support
24 Agreement that provides for
25 pre-confirmation distributions of this

1 D. Skeel - Professional Eyes Only
2 magnitude? By "this," I mean --

3 MS. DALE: Objection to form.

4 BY MR. DESPINS:

5 Q. -- as contemplated by the RSA.

6 A. I don't know.

7 MR. DESPINS: Let's circulate
8 this. That's going to be?

9 THE REPORTER: 11.

10 THE WITNESS: Are we finished
11 with this (indicating)?

12 MR. DESPINS: For now, yes.

13 (Skeel Exhibit 11, PREPA RSA -
14 Bondholders' Recoveries Based on David
15 Brownstein's Declaration, not
16 Bates-stamped, marked for
17 identification, as of this date.)

18 (Document review.)

19 MS. DALE: Luc, there is no Bates
20 on this. Is this something that was
21 prepared --

22 MR. DESPINS: No. I'll describe
23 it in a second.

24 MS. DALE: Okay. Thank you.
25 (Document review.)

1 D. Skeel - Professional Eyes Only
2 A. Okay.

3 Q. Okay. So this is a document that
4 was generated by our financial advisers,
5 but it is a complete copy of the schedules
6 contained in the Brownstein declaration
7 other than for the shaded lines at the
8 bottom.

9 Do you see there are two shaded
10 percentages columns at the bottom?

11 A. Yes, I do.

12 Q. Okay. So other than that, the
13 rest is just exactly out of the Brownstein
14 declaration.

15 A. Okay.

16 Q. So the first thing is you know
17 that there are two types of securities
18 being given to the bondholders under the
19 RSA, correct?

20 A. Yes, I do.

21 Q. Okay. So there are the A bonds
22 and the B bonds?

23 A. Correct.

24 Q. Okay. And what is your
25 understanding of the expectation regarding

1 D. Skeel - Professional Eyes Only
2 the payments to be received by bondholders
3 under the A bonds?

4 A. The expectations in terms of what
5 we believe will happen?

6 Q. Yes.

7 A. We believe they will eventually
8 pay off.

9 Q. And if I'm not mistaken, before
10 lunch you mentioned, was it, 33 years or
11 something like that?

12 A. It's something, 33, 34, I think
13 are our most recent calculations.

14 Q. Okay. And what about the B
15 bonds, what is your expectation there?

16 A. The expectation is that they
17 won't pay off in full. And that's the
18 middle column that you have is based on the
19 expectations.

20 Q. Okay. Do you see the difference
21 on top there between the claims of the
22 bondholders with post-petition interest or
23 without post-petition interest? This is
24 one little i and two little i on the top.
25 Do you see the difference? 9.3 --

1 D. Skeel - Professional Eyes Only

2 A. I see it. I'm just looking.

3 Q. Okay.

4 (Document review.)

5 A. Yes, I see those numbers.

6 Q. Okay. So you testified before
7 that your understanding of the recovery
8 percentage to the bondholders was in the 73
9 percent range or so.

10 Is that fair?

11 MS. DALE: Objection. Misstates
12 his testimony.

13 BY MR. DESPINS:

14 Q. Well, please correct me.

15 A. My expectation -- or our expect
16 -- my understanding of our expectation with
17 the recovery of principal of the
18 bondholders is that they will recover in
19 full on the A bonds and roughly half on the
20 B bonds, a little more than half.

21 Q. No, no, I understand that.

22 What I'm saying is that in terms
23 of their percentage recovery compared to
24 their pre-petition position, I thought I,
25 and correct me if I'm wrong, I thought I

1 D. Skeel - Professional Eyes Only
2 heard you state that you thought it was in
3 the 73 percent range or something like
4 that?

5 A. I was speaking of the principal
6 recovery, or I meant to be.

7 Q. Principal, you mean, principal
8 without --

9 A. Not factoring the interest into
10 it. Their principal as of the commencement
11 of the RSA, of the payout under the RSA.

12 Q. Okay. Well, I think there is a
13 disconnect there because if you use only
14 their principal amount, and I agree that
15 should be the measure, their recovery in
16 the middle of the column is 86.2 percent.

17 Are you sure you don't mean
18 principal plus interest?

19 A. Well, the number I'm thinking of
20 is the principal plus accrued -- percentage
21 of the principal plus accrued interest as
22 of May 20, 2019.

23 Q. Okay. Thank you.

24 So that's the 78.8 figure in the
25 middle column?

1 D. Skeel - Professional Eyes Only
2 By the way, if those figures are
3 wrong, I'm not going to hold you to this,
4 but I think that's the math.
5 A. I'm trusting your math.
6 Q. Not my math. Never trust my
7 math.
8 A. I'm trusting somebody's math.
9 MS. DALE: Yup.
10 (Document review.)
11 A. I mean, I'm not following whether
it's including the --
12 Q. Yes, that's why the dates are
13 different. Do you see --
14 A. Yeah --
15 Q. -- it says --
16 A. -- that's post.
17 Q. Exactly. So if you include the
18 post-petition interest, they're getting
19 78.8 percent. That's what Mr. Brownstein
20 is saying. And the total recovery, if you
21 include post-petition interest, is 86.2
22 percent, again, based on Mr. Brownstein's
23 numbers.
24 A. But that's not what he said.
25

1 D. Skeel - Professional Eyes Only
2 That's you calculated --
3 Q. No, he did not calculate the
4 numbers, but all the other numbers are
5 there. So this is purely mathematics. So
6 it's the application of these numbers.
7 So my question to you is, are you
8 comfortable with this range of, you know,
9 either 78.8 or 86.2 percent of their
10 claims, that's in the middle scenario,
11 expected cash flow to Tranche B.
12 MS. DALE: Objection to the form
13 of the question.
14 A. These numbers that you've added,
15 you are calculating -- you're looking at
16 different things than what we were looking
17 at. We were looking -- we're looking --
18 you're adding -- you appear to be adding in
19 the administrative claim from May 2019 to
20 2020, the waiver and support fee. So you
21 are adding things into the numbers.
22 Q. No, no, those numbers are all in
23 Mr. -- we can confirm that. If you take
24 the Brownstein declaration, you will see
25 there are schedules.

1 D. Skeel - Professional Eyes Only
2 MS. DALE: No. 5.
3 BY MR. DESPINS:
4 Q. Page 15 and 16, do you see the
5 claim is there for 393.8 -- well, 393.764,
6 page 15, paragraph 37.
7 (Document review.)
8 A. Okay. Go ahead.
9 Q. Okay. So just to be clear, we're
10 not -- we're using his numbers, just
11 putting percentages on them depending on
12 whether you include -- you measure this
13 including post-petition interest or not.
14 So my question to you is, are
15 you, focusing on the middle column, the
16 percentages that are there, 78.8 percent
17 and 86.2 percent, are you comfortable that
18 this did not exceed your upper range of
19 recovery?
20 A. I am comfortable, yes. As I
21 said, this is adding things -- this is
22 adding everything up.
23 Q. Well, don't you agree that is the
24 right way to do it?
25 A. That may be the right endpoint.

1 D. Skeel - Professional Eyes Only
2 It's not the right -- the start point, in
3 my view, is what is the claim and what
4 percentage of the claim. And this is
5 adding several things on top of that. It's
6 adding the administrative claim for the
7 next year, we're in the middle of the year,
8 and the waiver and support fee as well.
9 Q. So that should not be included,
10 in your view?
11 A. It should be included in your
12 ultimate conclusion, yes.
13 Q. Okay. But your testimony is that
14 these percentages have not exceeded your
15 upper end of the range?
16 A. That is correct.
17 Q. Even the one at 86.2 percent?
18 A. That is correct. You're looking
19 at this differently than I would look at
20 it, but seeing these numbers, yes, I'm
21 comfortable with this.
22 Q. Would you be comfortable at 90
23 percent?
24 A. What we're basing this analysis
25 against is a claim that they're entitled to

1 D. Skeel - Professional Eyes Only
2 100 cents on the dollar, interest
3 throughout from the beginning to the end of
4 time. And the RSA, in my view, is a
5 significant reduction of that.

6 Q. Well, we're talking about, if
7 it's 90 percent, then the discount is 10
8 percent.

9 Do you think that is significant
10 given the legal issues here?

11 MR. HAWKINS: Objection to form.

12 A. Yes, the way -- yeah.

13 Q. Okay.

14 MS. DALE: When it's convenient,
15 can we take another break?

16 MR. DESPINS: Sure. Now if you
17 want.

18 THE VIDEOGRAPHER: The time is
19 2:33 p.m. We are off the record.

20 (Recess is taken.)

21 THE VIDEOGRAPHER: The time is
22 2:48 p.m. We are back on the record.

23 (Skeel Exhibit 12, Text messages
24 beginning with text messaged dated
25 7/13/18 from Matosantos to Skeel,

1 D. Skeel - Professional Eyes Only
2 Bates-stamped FOMB_9019_MOBILE_00000101
3 through 126, marked for identification,
4 as of this date.)

5 (Document review.)

6 BY MR. DESPINS:

7 Q. Tell me when you're ready.

8 A. Okay.

9 Q. That's Exhibit 12, correct?

10 A. That's what it says.

11 Q. Exhibit 12 appears to be a series
12 of text messages. The batch numbers are
13 FOMB0101 through 0126. They are in 2018,
14 although in different days of 2018, appear
15 to be late -- mid to late July, early
16 August.

17 So the first thing to clarify,
18 we're talking about PREPA here?

19 MS. DALE: Objection.

20 A. Which one are you talking about?

21 Q. All of them. Generally, the
22 discussion is about PREPA? There are
23 references to COFINA as well, but generally
24 this is about PREPA?

25 A. At least some of it is about

1 D. Skeel - Professional Eyes Only
2 PREPA.

3 Q. Okay. What does Ana, what does
4 she mean on 101 when she says, "I was not
5 tracking on the 90. What was that?"

6 Response, "I wasn't sure either.
7 I think it may be ad hoc 70/20 proposal."

8 A. Well, the 70/20 would be
9 presumably an A bond with a 70 cents on the
10 dollar payout and a B bond with 20.

11 Q. For a total potential of 90
12 percent recovery or?

13 A. It looks like that's what I was
14 guessing.

15 Q. Okay.

16 A. I wasn't sure, it looks like.

17 Q. Okay. 105, this is again Ana
18 saying, "I'm sorry I was getting impatient
19 with Citi."

20 And then next page, "I just don't
21 quite know what their deal is," meaning,
22 Citi, 107.

23 "And I was trying to feel out
24 whether they had direction that had not
25 come from us." This is on 108.

1 D. Skeel - Professional Eyes Only
2 And you respond, "No worries.
3 I'm cautiously optimistic."

4 What is she talking about Citi
5 there, or do you have any sense?

6 A. I do not know what this is in
7 reference to.

8 Q. Okay. Then on 111, she says, "It
9 felt weird to frame things as they did with
10 four of us here."

11 What does she mean by the four of
12 us. Who is that?

13 A. I don't know. I don't know where
14 we are or what we're doing.

15 Q. Okay. In 112 she says, "I find
16 the duration brutal."

17 What duration is she referring
18 to?

19 A. My guess is it's the duration of
20 the B bond, but I don't know.

21 Q. Well, next page, 113, "Issuing
22 50-year debt to have an unaffordable level
23 of borrowing for its GO and get around the
24 constitution didn't work out very well for
25 the people or the creditors."

1 D. Skeel - Professional Eyes Only
2 So I guess that's what she must
3 be talking about.
4 A. Although that doesn't sound --
5 this doesn't sound like PREPA. It's --
6 Q. No, it's not -- she's referring
7 to the fact that that strategy of loading
8 up debt has not worked out well for Puerto
9 Rico.
10 MS. DALE: Well, wait for a
11 question.
12 MR. DESPINS: Okay.
BY MR. DESPINS:
14 Q. Then 114, "Makes sense to argue
15 or to raise."
16 Do you know what she's talking
17 about?
18 A. I do not.
19 Q. Then you respond, "You could
20 though, Davids," plural, "making the
21 resistance clear."
22 One of these is David Brownstein,
23 correct?
24 A. I don't know. It could well be.
25 I don't think the text had said.

1 D. Skeel - Professional Eyes Only
2 Q. Well, she's talking about the
3 Citibank folks, so...
4 A. The odds are pretty good --
5 Q. Okay.
6 A. -- it's a reference to David
7 Brownstein, but I do not know.
8 Q. Okay. Page 118, "Big thing today
9 was PREPA and COFINA and PREPA got a
10 counter 67.5 A and 10 on a B. Aligned with
11 our last convo - I think. We said okay."
12 Next one, "I said please call
13 David pre any communication with
14 creditors."
15 David, who is she talking about?
16 She's talking about you then?
17 A. She -- yeah, I think she is, but
18 I'm not sure.
19 Q. Okay. Now this is a text from
20 you on page 120.
21 "Thanks much on both counts. And
22 the numbers sound consistent. At the very
23 high end of okay."
24 So -- and the numbers she was
25 quoting was 67.5 and 10.

1 D. Skeel - Professional Eyes Only
2 Is that where we ended up, 67 and
3 a half and 10?
4 A. Yes, that's where we ended up.
5 Q. Okay. So when you're referring
6 to a "very high end of okay," you're
7 referring to that transaction or that --
8 what she just described?
9 A. I'm saying that those numbers are
10 at the high end of reasonableness.
11 Q. Okay. Then on 121, a different
12 date, a question from you: "Do you know
13 where things stand on PREPA? I am a little
14 queazy about the 5.25 discount rate. It
15 looks to me to put the potential recovery
16 over 80 percent from the perspective of a 5
17 percent rate and over the original
18 anticipated deal numbers."
19 Can you expound on that, what did
20 you mean?
21 A. I think I'm talking about what
22 interest rate will we use as we're
23 negotiating the interest rate.
24 Q. But you mention an 80 percent
25 recovery percentage in that these numbers

1 D. Skeel - Professional Eyes Only
2 would bring us above 80 percent, correct?
3 A. Say that again.
4 Q. You mentioned in your text that
5 using that discount rate would put the
6 potential recovery over 80 percent?
7 A. It says it looks to me to put the
8 potential recovery over 80 percent.
9 Q. And is that problematic?
10 A. Problematic in what sense?
11 Q. From your point of view.
12 A. I was -- I was, it looks like,
13 concerned about what interest rate we used
14 and the higher interest rate -- or the
15 lower interest, the better; the higher
16 interest rate, the less better.
17 Q. So how does that work? If the
18 interest rate is higher than needed to be
19 trading at par, then there is a higher
20 recovery than the 100 cents? Is that the
21 way it works?
22 MS. DALE: Objection to form.
BY MR. DESPINS:
24 Q. Or you tell me what you mean by
25 that.

1 D. Skeel - Professional Eyes Only
2 A. What I mean by here is we're
3 negotiating the interest rate, and we're
4 determining what the final interest rate is
5 going to be. And I would prefer 5 over
6 5.25.

7 Q. Because 5.25 got you to over 80?

8 A. From -- if 5 is the correct
9 number, then 5.25 implies a higher
10 recovery.

11 Q. And you said it's over 80 and
12 that was not acceptable to you, correct?

13 MS. DALE: Objection.

14 A. That's not what that text says.
15 The text says I was a little queazy about
16 the shift. And I am now persuaded that
17 that 5.25 is a good number.

18 Q. Really? How so?

19 A. I am persuaded that a market
20 number probably would have been a bit
21 higher than that.

22 Q. And how do you know that?

23 A. From discussions about the RSA.

24 Q. Did you ever -- did you get comps
25 from Citi on this issue?

1 D. Skeel - Professional Eyes Only
2 You know what I mean by comps,
3 right?

4 A. I do.

5 I don't know whether we got -- we
6 got advice about appropriate discount rate,
7 or, yeah, interest rates.

8 Q. And to be clear, right, if you
9 issue a debt instrument at five and a
10 quarter percent but the yield is really
11 lower than that, then that's additional
12 recovery, isn't it?

13 A. Say that again.

14 MS. DALE: Objection to the form.
15 BY MR. DESPINS:

16 Q. If a debt instrument is issued at
17 a five and a quarter percent but the yield
18 on such instrument is less than five and a
19 quarter percent, what is the impact of that
20 discrepancy on the recovery to the
21 creditors holding such instrument?

22 MS. DALE: Objection to the form.

23 A. Yeah, I'm not following what you
24 mean by the yield. I think we can reach a
25 meeting of the minds on the point you're

1 D. Skeel - Professional Eyes Only
2 trying to make, but I'm not following what
3 you mean by when -- in your reference to
4 yield.

5 Q. Well, is that what you meant by
6 saying, "It looks to me to put the
7 potential recovery over 80 percent from the
8 perspective of a 5 percent rate"?

9 A. If 5 percent, as you are right,
10 is your baseline, a 5.25 discount rate
11 implies a higher recovery, yes.

12 Q. So when you signed the -- or
13 approved the permanent RSA in May 2019, did
14 you re-up your analysis of that issue you
15 just addressed in that text message?

16 MS. DALE: Objection to the form.

17 A. The issue of the appropriate
18 interest rate has been a constant topic of
19 conversation, so we're talking about it.
20 This was going into the preliminary RSA --

21 Q. Yup.

22 A. -- and we would have talked about
23 it as well with the permanent RSA.

24 Q. Well, it's not a topic of
25 discussion of today, is it?

1 D. Skeel - Professional Eyes Only

2 A. Now it is.

3 (Laughter.)

4 Q. Good one. Yes, it is.

5 I'm saying that your not having a
6 debate over the appropriate interest rate
7 these days, are you?

8 A. No. We, I think, did settle and
9 have settled on 5.25 as an appropriate
10 interest rate.

11 Q. 123, "I get that the main
12 question was settled by others, but I can't
13 get over the fact that this deal is too
14 rich."

15 So what was settled by others?
16 What is the main question that she's
17 referring to?

18 MS. DALE: Objection.

19 A. I don't know.

20 Q. But you respond, "This and the
21 PREPA deal, both in my view."

22 You're responding to the one that
23 says, "Deal is too rich. The only
24 justification on this one in my view is
25 that there is a real chance COFINA would

1 D. Skeel - Professional Eyes Only
2 rights under that provision are limited?
3 That the board, for example, cannot just
4 say we decided this doesn't make sense,
5 we're walking. It doesn't provide for a
6 complete walkaway right, correct?

7 A. Once the RSA is formally
8 approved.

9 Q. Yes, correct. I'm sorry. I'm
10 assuming the RSA is approved. Under that
11 regime, once that it's approved, the board
12 cannot just decide we don't like this deal
13 anymore?

14 A. That's correct.

15 Q. Okay. Has the board ever
16 attempted to get a full fiduciary out?

17 Do you understand what I mean by
18 a full fiduciary out?

19 A. I know what a -- I know what a
20 fiduciary out is, yes.

21 Q. Okay. And so a full, meaning one
22 that allows the board to terminate the
23 transaction for whatever reason it deems
24 appropriate, has the board ever sought that
25 type of termination right?

1 D. Skeel - Professional Eyes Only
2 A. That's not what a fiduciary out
3 is. A fiduciary duty out is an out where
4 it would breach your duty to continue to
5 form an agreement.

6 Q. Okay. So has the board ever
7 attempted to get the out that you just
8 described?

9 A. We have talked about those kinds
10 of issues, yes.

11 Q. We've talked about that
12 internally, or did we make that a request
13 to the bondholders?

14 A. I'm not sure specifically what
15 was requested of the bondholders, but the
16 issue of what causes the agreement to
17 terminate was much discussed.

18 MR. DESPINS: Okay. Tab C.
19 BY MR. DESPINS:

20 Q. So did you ever get a fiduciary
21 out in the document?

22 A. We have a parallel to a fiduciary
23 out, which is that if the plan is not
24 confirmed, if a reorganization plan or a
25 plan of adjustment based on the RSA is not

1 D. Skeel - Professional Eyes Only
2 confirmed, I believe it's after two
3 attempts, that's a basis for getting out of
4 the RSA.

5 Q. Getting out without any financial
6 consequences or?

7 A. I don't remember what the, what
8 the effect is.

9 (Skeel Exhibit 18, Email chain
10 beginning with email dated 1/28/19 from
11 Shannahan to Gana, Bates-stamped
12 ASSURED-PREPA-9019- MOTION_00034736
13 through 34737, marked for
14 identification, as of this date.)

15 MR. DESPINS: I'll just describe,
16 this is Exhibit 18, Assured-PREPA
17 Document 34736 and 34737, an email from
18 Andrew Shannahan to Jorge Gana at
19 Assured.

20 MS. DALE: He doesn't have the
21 document.

22 (Discussion off the record.)

23 BY MR. DESPINS:

24 Q. I'm not going to ask a question.
25 Just read it.

1 D. Skeel - Professional Eyes Only

2 A. Should I read it?
(Document review.)

3 A. Okay.

4 Q. So on top there, they're talking
5 about fiduciary out, right? "Ability to
6 walk away from the deal if it no longer
7 fits the government's privatization plan
8 and bondholders don't get the benefit of
9 the 2019 lien validation."

10 This is now Mr. Shannahan
11 speaking, "As I said, complete nonstarter."

12 That's to be expected from his
13 perspective.

14 Then it says, "Not the FOMB's
15 position and likely more Nancy trying to
16 create litigation."

17 So the bondholders seemed under
18 the impression that we're not asking for
19 that fiduciary out.

20 Does that jive with your
21 recollection?

22 MS. DALE: Objection to the form.
23 A. I don't specifically remember the
24 discussion of this.

1 D. Skeel - Professional Eyes Only
2

3 Q. Okay. Let's talk about the
4 stipulated treatment provision. You
5 mentioned that a few minutes ago.

6 What happens during -- if that
7 provision is triggered to the payments
8 received by the bondholders, for example?

9 A. I assume they keep them as part
10 of a stipulated treatment. So the payments
11 received up to that point.

12 Q. Why do you assume that?

13 A. Because I don't have the document
14 in front of me to, to give myself complete
15 confidence of that answer.

16 Q. But why would you assume the
17 opposite?

18 A. Because the stipulated treatment
19 gives them 73 -- I think it's 73.25
20 percent, and I assume or -- yeah, I assume
21 that that also includes they would keep the
22 payments they received up to that point.

23 Q. Did the board ever ask for
24 clawback rights? You understand what I
25 mean in this context by clawback rights?
We're not talking about the clawback bonds

1 D. Skeel - Professional Eyes Only
2 now, we're talking about --
3

4 A. I'll try to be very careful how
5 we talk about clawbacks because it means so
6 many things.

7 Q. Actually, it doesn't mean
8 clawback anyway, but that is a different
topic.

9 So in this context, when we're
10 focusing on the payments received by the
11 bondholders, did the Oversight Board
12 request that the payments be subject to
13 disgorgement or a clawback?

14 MS. DALE: Objection to the form.

15 A. I just don't remember if that was
16 a subject of conversation.

17 Q. Do you derive any comfort from
18 the fact that if they keep the payment,
19 they are applied against their claims, the
20 payments are applied against their claims?
21 Do you derive any comfort from that
22 provision?

23 A. I just don't remember. I mean, I
24 would need to work through the provision.

25 Q. Okay. So switching topics now,

1 D. Skeel - Professional Eyes Only
2 you're familiar with the concept of a
3 breakup fee?

4 A. Yes, I am.

5 Q. In the mergers and acquisitions
6 context?

7 A. Yes, I am.

8 Q. And --

9 A. I've written about them.

10 Q. Okay. And the board here, in
11 pleadings filed with the court, has
12 analyzed, as described, if you will, the
13 payments that the bondholders get to keep
14 as a breakup fee.

15 So my first question to you is,
16 is that the way the board perceived these
17 payments when it approved the RSA?

18 A. That's not the way I think of
19 them. I think breakup fee would be a very
20 loose description.

21 Q. Typically a breakup fee would
22 be -- what would be the range from a
23 percentage point of view of a breakup fee?

24 MS. DALE: Objection. Calls for
25 speculation. Out of context.

1 D. Skeel - Professional Eyes Only
2 BY MR. DESPINS:

3 Q. You've written articles about
4 this, so...

5 A. I can tell you what it is in
6 Delaware. In Delaware, it's 3 or 4 percent
7 of the deal price.

8 Q. Thank you. Okay.

9 A. Not in bankruptcy.

10 Q. Okay. You think it's higher or
11 lower in bankruptcy?

12 MS. DALE: Objection.

13 A. I don't know.

14 Q. Okay. But in the event -- were
15 you ever provided with comps for what a
16 breakup fee would be in a bankruptcy case
17 before you approved the RSA?

18 A. I don't recall being given comps.

19 Q. Comps for a breakup fee?

20 A. Comps for a breakup fee.

21 Q. Okay. What's your understanding
22 of the effect of the RSA on the solar power
23 industry in Puerto Rico?

24 A. It's hard to answer that
25 question. What do you mean what the effect

1 D. Skeel - Professional Eyes Only
2 is?

3 Q. Have you heard any complaints by
4 solar power industry representatives about
5 the effect of the RSA on their business?

6 A. We may have. We've gotten
7 communications from people in the
8 renewables space, so we may have heard
9 criticisms. I don't remember specifically.

10 Q. Well, do you understand the
11 nature of their criticism of the RSA?

12 A. I don't remember.

13 Q. Okay.

14 MR. DESPINS: Tab 49.

15 (Skeel Exhibit 19, Email dated
16 101/119 from Reorg Alert to Zwillinger,
17 not Bates-stamped, marked for
18 identification, as of this date.)

19 (Document review.)

20 BY MR. DESPINS:

21 Q. Just you feel free to read the
22 entire thing, but I'm going to ask you
23 about what's starting with the last
24 sentence of page 1 of this document and the
25 carryover paragraph and the paragraph after

1 D. Skeel - Professional Eyes Only
2 that, but I don't want to limit your
3 review. I just think we can save some time
4 if you focus on this.

5 A. Okay. I'll read a little bit in
6 each direction.

7 Q. Okay. So while you're doing
8 that, this is not Bates-stamped, but it's a
9 reorg research article dated October 1st,
10 2019.

11 (Document review.)

12 A. Okay.

13 Q. There is a reference in there, it
14 seems to be a quote so -- it says, "Marrero
15 indicated that the PREPA Restructuring
16 Support Agreement is among debt
17 restructuring proposals that are being
18 looked at, at least in part, in the context
19 of the filing of the Commonwealth plan."

20 Is this news to you?

21 A. News in what sense?

22 MS. DALE: Objection to form.

23 BY MR. DESPINS:

24 Q. Well, it seems that the
25 government and AAFAF have signed the RSA,

1 D. Skeel - Professional Eyes Only
2 the permanent RSA on May 3rd, 2019, and the
3 amendment, I assume they've also signed the
4 amendment that was done in September.

5 So I'm reading this and I'm
6 wondering what is he talking about? I
7 mean, what is the government doing?

8 MS. DALE: Objection to the form.

9 Do you have any idea what he's
10 talking about?

11 MR. DESPINS: I don't.

12 A. I don't. He just seems to be
13 saying that now that the Commonwealth plan
14 has been filed, they needed to kind of look
15 at the big picture and look at all of the
16 other agreements that are underway.

17 Q. But then the next sentence, you
18 know, or a little further down says,
19 "Obviously there are some transactions
20 where we have to look at the details to see
21 whether they have to be revisited, improved
22 or reconsidered in light of the
23 circumstance, and that's what we're doing,"
24 Marrero said.

25 "That's exactly why, for example,

1 D. Skeel - Professional Eyes Only
2 we have decided to extend the PREPA RSA
3 twice, already to just have the time, for
4 further analysis added Marrero, who
5 indicated the analysis has centered on what
6 terms and conditions might need to be
7 revisited and which creditors should be
8 consulted."

9 So my question to you is, is the
10 government on board with the RSA or not?

11 MS. DALE: Object to the form.

12 A. I believe they are. I mean, he
13 goes on to say he doesn't know which
14 restructuring deal, PREPA or the
15 Commonwealth's, he thinks will get done
16 first, but said AAFAF is equally committed
17 to all deals.

18 Q. Okay. So you are not aware of
19 any renegotiations or reconsideration by
20 the government of the RSA as you sit here
21 today?

22 A. I am not.

23 Q. Okay.

24 MR. DESPINS: We'll take, if
25 that's okay with your counsel, a